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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re EDWIN R., a Person Coming Under  
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

EDWIN R.,

Defendant and Appellant.

A106967

(San Francisco County  
Super. Ct. No. JW03-6577)

Allegations in a 602 petition<sup>1</sup> that appellant, minor Edwin R., committed attempted second degree robbery (Pen. Code, §§ 664/212.5, subd. (c)) and misdemeanor battery (Pen. Code, § 242) were sustained. He was redeclared a ward of the court with placement at the Log Cabin Ranch. On this appeal, appellant contends (1) that the evidence was insufficient to support the finding of attempted robbery of victim Marleni Barrios Mendez; and (2) that the trial court improperly limited his cross-examination of Eduardo Barrios, the victim of the misdemeanor battery. We find both contentions to be without merit and affirm.

**FACTS**

On the afternoon of April 6, 2004, Eduardo Barrios and his sister, Marleni Barrios Mendez, five months pregnant, were walking in the vicinity of 19th Street

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<sup>1</sup> Welfare and Institutions Code section 602.

and Mission in San Francisco. Appellant, in the company of other youths, approached and forcibly grabbed and pulled hard on Mendez's backpack, which was strapped to her shoulders. Barrios came to the aid of his sister and pushed appellant. Appellant responded by punching Barrios in the mouth. Barrios sustained a cut lip. When Barrios used his cell phone to summon the police, appellant and the other youths fled.

When the police arrived, Barrios informed the officers of what had occurred and he and his sister entered Officer Johnson's patrol car to search for appellant. Approximately a block from the scene of the attempted robbery, appellant was located. When he saw the patrol car, appellant turned and started walking away. Officer Johnson pursued on foot after shouting at appellant to stop. Johnson eventually apprehended appellant, who tried to pull away from Johnson's grip on him.

Barrios and his sister identified appellant as the attempted robber. Barrios knew appellant because appellant and appellant's aunt had once lived at the Barrios's house. When apprehended, appellant had a fresh cut on the knuckle of his left hand.

Appellant testified and denied committing the crimes charged. He testified that he never saw the victims on the day of his arrest. According to appellant, he was walking down the street when he saw Officer Johnson, who had arrested him on a previous occasion. Because he was on probation, appellant "started walking back so that he [Johnson] wouldn't see me." As he was walking away, Johnson grabbed appellant's sweater and arrested him. Appellant explained the cut on his knuckle as being from a fall earlier in the day.

Appellant also testified that his aunt, Maria R., had rented a room in the Barrios's home and that he resided there with his aunt. Approximately nine months before the assault and attempted robbery, appellant had a verbal argument with Eduardo Barrios, who then evicted appellant and his aunt. The aunt corroborated appellant as to the verbal argument and eviction. She also testified that she did not

know if Barrios and appellant had “a bad relationship.” “I don’t know if they saw each other again after that.”

## DISCUSSION

1. *The evidence was sufficient to support the trial court’s finding of attempted robbery.*

Appellant initially contends that the evidence was insufficient “respecting the element of intent” to support the trial court’s finding of attempted robbery.

“In addressing a challenge to the sufficiency of the evidence supporting a conviction, the reviewing court must examine the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—evidence that is reasonable, credible and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] The appellate court presumes in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence. [Citations.]” (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.)

Attempted robbery, as with robbery, requires the specific intent to deprive another permanently of property. (*In re Albert A.* (1996) 47 Cal.App.4th 1004, 1007-1008; see *People v. Toledo* (2001) 26 Cal.4th 221, 229.) Here, the trial court, in sustaining the allegation of attempted robbery, accepted the testimony of the victims and rejected appellant’s testimony denying any contact with the victims on the day of the crimes. The testimony of the victims, found to be credible by the trier of fact, established that appellant forcefully pulled hard on the backpack worn by Mendez; that he physically attacked Barrios when Barrios intervened to protect his sister; that he fled when Barrios called police on the cell phone; that he attempted to evade Officer Johnson when police arrived; and that he offered resistance when Johnson was making the arrest. Based upon these facts, a rational trier of fact could conclude that appellant had the requisite intent for the crime of attempted robbery.

2. *Appellant was not denied his right to confront witnesses or to present a defense.*

Appellant also complains that his cross-examination of Barrios was unduly restricted by the trial court and resulted in the denial of the right to present a defense. Specifically, appellant contends that the trial court erroneously sustained objections to his question of Barrios as to why appellant's aunt left the Barrios house and to his question asking Barrios to briefly describe the prior verbal altercation with appellant. The record does not support this contention.

The record reflects, to the contrary, that appellant was allowed to ask Barrios whether he had evicted appellant's aunt and whether the Barrios family had evicted appellant. Asking Barrios why appellant's aunt left the residence was, arguably, calling for speculation and, in any event, both appellant and the aunt testified that they left the home because they were evicted by Barrios. As to the verbal altercation, appellant was allowed to ask Barrios whether there had been a verbal altercation with appellant. Barrios responded that there had been approximately a year before while appellant's aunt was living at the home. The exclusion of the details of the verbal altercation as irrelevant was not error and, in any event, the details were covered through appellant's own testimony related to the eviction.

In short, appellant has failed to establish a violation of confrontation rights or a denial of the right to present a defense.

Judgment affirmed.

Reardon, Acting P.J.

We concur:

Sepulveda, J.

Rivera, J.